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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

BARNES, CROSBY, FITZGERALD &  
ZEMAN, LLP,

Plaintiff and Appellant,

v.

JEROME L. RINGLER et al.,

Defendants and Appellants.

G053966

(Super. Ct. No. 30-2009-00125160)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Gail  
Andrea Andler, Judge. Affirmed.

The Ehrlich Law Firm and Jeffrey Isaac Ehrlich for Plaintiff and Appellant.

Cheong, Denove, Rowell & Bennett and John F. Denove; Law Offices of  
Michael J. Zuckerman and Michael J. Zuckerman for Defendants and Respondents  
Jerome L. Ringler, Thomas A. Kearney, Paul Alvarez and Ringler Kearney Alvares LLP.

Lindahl Beck and George M. Lindahl for Defendants and Respondents  
McNicholas & McNicholas, Patrick McNicholas and Matthew McNicholas.

Esner, Chang & Boyer and Stuart B. Esner for Defendants and Respondents.

\* \* \*

Normally, a fee splitting agreement between attorneys is not valid in the absence of the client's written consent. In our prior opinion in this case, *Barnes, Crosby, Fitzgerald, & Zeman v. Ringler, LLP* (2012) 212 Cal.App.4th 172 (*Barnes I*), we held that a party may be equitably estopped from relying on this rule if one party actively prevented the other from obtaining the client's written consent. We remanded for a trial on that issue.

The parties held that trial, and the court granted a motion for judgment after a bench trial (Code Civ. Proc., § 631.8), finding defendants had not wrongfully prevented plaintiffs from obtaining client consent.<sup>1</sup> On appeal, plaintiffs contend the court misinterpreted our opinion in *Barnes I* by narrowly construing what sort of conduct might give rise to equitable estoppel in this context. They contend the error was prejudicial because, properly construing our opinion, there was evidence to support a finding of equitable estoppel. We conclude the court correctly interpreted our opinion and that its ultimate finding—no equitable estoppel—was not an abuse of discretion.

## FACTS

In September 2005, William Crosby and Michael Fitzgerald, two partners in the law firm of Barnes, Crosby, Fitzgerald & Zeman, LLP (Barnes LLP), had lunch with one of Crosby's clients, Larry Hoffman. Hoffman had recently been terminated

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<sup>1</sup> All statutory references are to the Code of Civil Procedure unless otherwise stated.

from his employment at RSM EquiCo (EquiCo) after six and a half years. Hoffman had served as EquiCo's senior managing director, and in the months preceding his departure from the company, had voiced concerns to EquiCo's parent company, H&R Block, about what he perceived to be EquiCo's "fraudulent, unethical and illegal" business practices. He even went so far as to express concern about his "own potential complicity in what [he had] come to realize is a pattern and practice of fraud and unfair business practices on the part of [EquiCo]." About the time he left EquiCo, Hoffman retained Barnes LLP to represent him in a wrongful termination lawsuit against EquiCo.

Hoffman described EquiCo's fraudulent business practices to Crosby and Fitzgerald at their lunch, which Fitzgerald subsequently memorialized in a memo. In essence, EquiCo styled itself as a business broker for small to midsize businesses. Through a telemarketing campaign, EquiCo would invite such businesses to seminars around the country calculated to persuade attendees that EquiCo was uniquely positioned to sell their businesses to international buyers with an outsized interest in purchasing companies. As a precondition to being marketed, the client would pay \$40,000 to \$50,000 for EquiCo to prepare an appraisal (sometimes called a "platform"). What went unemphasized at the seminars, however, was that under the terms of the "Platform Agreement," EquiCo's obligation to market the client arose only where the client agreed to sell at the value determined by EquiCo. The companies would be enticed to buy the full appraisal with a preliminary appraisal that overvalued the company, only to have the full appraisal come back with a much lower number. The companies would typically lose interest in selling after seeing the lower number. Only 2 percent of the companies who bought appraisals were ultimately sold.

Following the meeting with Hoffman, Fitzgerald discovered that one of his clients, Cordell Meredith, who owned a company called StaffPro, Inc., had fallen prey to EquiCo's scheme. Fitzgerald and Larry Zeman (another partner at Barnes LLP) both recognized the potential for a class action on behalf of defrauded EquiCo clients and

decided to reach out to defendant Jerome Ringler, who they knew to have had success prosecuting class actions. At the time, Ringler worked at the firm of Robins, Kaplan, Miller & Ciresi LLP (Robins Kaplan), who Zeman regarded as the biggest class action firm in the country.

At a meeting with Ringler, the Barnes LLP lawyers mentioned that if Ringler were to take the case, Barnes LLP would expect a one-third referral fee. Ringler explained that class actions differ from other cases in that he could only share the fee with Barnes LLP if it performed work on the case.

At that meeting, the Barnes LLP lawyers did not mention they were representing Hoffman, nor did they disclose the letters in which Hoffman accused EquiCo of fraudulent business practices but also expressed concern for his own liability in the fraudulent scheme. In commenting on the importance of this omission, Ringler testified that the letters Hoffman wrote (there were two) would have been important evidence at trial because they were directed to H&R Block, EquiCo's parent company. EquiCo could not satisfy a judgment; H&R Block, however, could. Accordingly, the focus of the class action trial was establishing alter ego liability, for which these letters would have been particularly important.

A memo written by Barnes LLP suggests the effort to conceal Hoffman's identity and role in the scheme was intentional. Barnes LLP delivered a memo to Ringler, dated October 4, 2005, in which it outlined the basic scheme of EquiCo's fraudulent practice. During discovery, however, a virtually identical memo was produced that was not delivered to Ringler. It had one difference: it made several references to Hoffman, which, in the delivered version, had been deleted or replaced with impersonal language.

There was evidence that this scheme to conceal Hoffman carried with it a plan to split legal fees with Hoffman, a nonattorney. Fitzgerald, following his meeting with Ringler, jotted down notes including a calculation of potential attorney fees

assuming a verdict of \$100 million. The notes indicate a fee award of \$25 million would result in \$8.3 million in fees to Barnes LLP (one-third). The notes then carve out 15 percent of that, or \$1.245 million, with no explanation. There is then another set of notes, this time in Hoffman's handwriting. Hoffman's notes includes the same fee calculation, and, next to the calculation, also include a routing and account number for what appears to be a Bank of America account.<sup>2</sup>

The client Barnes LLP had referred to Ringler was Meredith. However, Ringler quickly realized Meredith would not be a suitable class representative. Unlike other putative class members, Meredith had interlineated a prevailing-party attorney-fee provision in his appraisal contract. This created a potentially massive financial risk for Meredith if EquiCo were to prevail. Also, unlike other putative class members, Meredith had interlineated a stipulated value for his business, StaffPro, Inc. Given that the gist of the class action was that EquiCo undervalued its clients, this atypicality counseled against choosing Meredith as the class representative. Finally, Meredith's cause of action was arguably time barred. Due to these atypicalities, Robins Kaplan ended up filing an individual complaint on Meredith's behalf.

The Meredith complaint was filed in November 2005. Prior to its filing, an attorney from Barnes LLP edited and approved it.

In December 2005, Ringler sent Barnes LLP a one-sentence letter agreeing to share one-third of all attorney fees recovered in the class action. Ringler testified that in a conversation predating this letter, Barnes LLP agreed it would perform one-third of the work on the case, though the letter itself makes no reference to that condition, nor is

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Fitzgerald sought to explain these notes by suggesting the 15 percent refers to anticipated litigation costs. However, he could not explain why Barnes LLP would be responsible for costs; if so, why it would not be one-third of the costs; or, more importantly, why Hoffman would have any interest in costs or why his bank account number would appear in connection with such costs, particularly since he was not a party to the class action.

there any other documentation of that condition. At the time that Robins Kaplan agreed to a one-third fee split, it had not yet decided whether to pursue the class action. The agreement was simply that, if it decided to pursue the case, a one-third split would apply.

Around the same time, Ringler left Robins Kaplan and formed defendant Ringler Kearney Alvarez, LLP (RKA). Ringler took both Meredith's individual action and the potential class action with him. As the new firm was contemplating whether to pursue the class action, Ringler discussed with one of his new partners that he had an arrangement with Barnes LLP to share one-third of the fees in exchange for one-third of the work, should the firm decide to pursue the matter. Ringler's new partners had qualms about pursuing the case, however, due to the costs and manpower it would require.

In March or April of 2006, Barnes LLP informed Ringler for the first time that it represented Hoffman and had settled a wrongful termination suit against EquiCo for \$100,000. Barnes LLP informed Ringler it had signed a nondisclosure agreement (NDA) that precluded it from having any involvement in the class action. Although Barnes LLP refused to provide Ringler a copy of the NDA, as that would violate its terms, Barnes LLP indicated the NDA precluded it from taking a position adverse to EquiCo. Barnes LLP was adamant that its prior affiliation with the class action not be disclosed to any third party. It also insisted that there could be no "paper trail" connecting Barnes LLP to the class action.<sup>3</sup>

This development put the brakes on RKA's momentum towards pursuing the class action, as they no longer had the manpower to handle it. It also raised serious ethical concerns for Ringler concerning whether he could pay a referral fee to Barnes

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<sup>3</sup> The NDA, which Ringler was not shown, states, "Hoffman and his attorneys each represent that they will . . . not disclose any allegations of improper or questionable conduct by the Company or any of its affiliates and any of their respective employees or representatives. This commitment applies to disclosures to any person or entity, including but not limited to any past, present, future or prospective client of any EquiCo Released Party, . . . and any internet or other public media."

LLP under the circumstances. Ringler discussed his concerns with Barnes LLP, but its attorneys encouraged Ringler to move forward and attempt to find a way to ethically split fees with it.

To revive the plan for moving forward with the class action, Ringler turned to Patrick McNicholas of the law firm McNicholas & McNicholas. After several months and numerous conversations, RKA reached an agreement with McNicholas & McNicholas for splitting the workload, costs, and fees, and in May or June of 2006 decided to move forward with the class action. About that same time, Ringler transferred Meredith's individual case to an outside attorney who negotiated a tolling agreement and dismissed the complaint without prejudice.

The class action was filed in July 2006. Meredith had never been selected as the class representative. Instead, two companies, Do Right's Plant Growers and Golden Eagle, were selected as the class representatives. During the five years the class action was pending, Barnes LLP did not participate in the litigation of the case.

In August 2008, Barnes LLP lawyers approached Ringler about wanting to work on the case. In response, Ringler consulted an expert on conflicts of interest, who suggested that the NDA could potentially be a basis for disqualification, though a written conflict waiver could potentially clear up the conflict. The expert provided this analysis in an e-mail that did not come to any firm conclusion regarding the odds of the NDA serving as a basis for disqualification. In response, Barnes LLP drafted conflict waiver letters, but the discussions stalled at that point.

Roughly two weeks later, Ringler called one of the attorneys at Barnes LLP and left the following voicemail: "Hi Larry [Zeman] it's me [Ringler], Pat (McNicholas) did call me back. He did speak with Matt (McNicholas). While they are adverse to making any association because of the problem with the non-disclosure agreement, he discussed this with Fitz[gerald] [of Barnes LLP], it's not an ethical issue; it's whether there's a conflict that arises because of that. He is certainly willing, he said, to honor the

referral fee. Now the good part about that is, you know, he is willing to go into court at the end of the day [and] say your office referred it to us and we should have a share. It's problematic because the court is in some cases reluctant to give much in the way of a share where there aren't hours, so it is a bit of a Catch 22 although there will still be an ability to have some sharing I'm convinced with this Judge and in this case, you know the Judge would certainly be a leg up. Anyway so I think probably the best thing to do at this point is convince them that at a minimum we could ask the other side if they mind if you join us or if they think no you won't. If they say yeah well then they don't have a problem and you could still remain as the referring attorney with a referral fee at the end, so we are going to get money to you it's just a matter of how much."

After this voicemail, Ringler consulted additional ethics experts on the matter, one of whom testified at trial, and came to the conclusion that he could not share fees with Barnes LLP. However, Ringler still wanted to find some way to pay Barnes LLP. This resulted in a meeting in August 2009 between attorneys for Barnes LLP and the class counsel where Ringler proposed two alternatives for getting Barnes LLP paid. Ringler first suggested that he could support Barnes LLP in filing its own motion for a fee award for its pre-NDA time spent. Second, Ringler offered to associate Barnes LLP into a different case involving some sort of railroad litigation, which he described as "equally lucrative as the case we're litigating here," and to share fees. Barnes LLP refused both offers. Instead, Barnes LLP demanded that Ringler pay it under the table, outside the court process. Ringler refused because he believed it would be unethical.

In February 2009, Barnes LLP retained counsel who sent Ringler a letter demanding that he obtain consent from the class representatives to split fees with Barnes LLP, and threatening to file suit. This is the first reference in the record to the need for written client consent.

In June 2009, Barnes LLP filed the underlying lawsuit, initially as a verified complaint for declaratory relief, against Ringler, RKA and McNicholas &

McNicholas, all of whom are respondents here. The complaint alleged Barnes LLP had not referred a class representative, but had provided RKA with the grounds for the class action and the factual analysis and legal investigation it had performed. Barnes LLP acknowledged in the complaint that a fee splitting agreement would require disclosures to the court and the class representatives, but alleged RKA had exclusive access to the class representatives.

In June 2011, class counsel voluntarily dismissed hundreds of class members from the class action, including all members “who received their [appraisal] prior to July 11, 2002 . . . .” This included Meredith. The rationale for the dismissal was that these claims were arguably time-barred, and though the delayed discovery rule could apply, the court had “serious difficulty” envisioning how claims of delayed discovery could be tried on a class-wide basis. Afterward, Meredith settled his individual claim for \$20,000, which was more than the class representatives received.

In July 2011, the underlying declaratory relief action proceeded to a bench trial before Judge Kim Dunning, who was also adjudicating the class action. (*Barnes I*, *supra*, 212 Cal.App.4th 178.) After the parties delivered their opening statements, Judge Dunning granted a nonsuit motion, concluding that State Bar Rules of Professional Conduct, rule 2-200 (rule 2-200)<sup>4</sup> precluded any relief for Barnes LLP because it did not have written client consent to split the fees. (*Ibid.*) Barnes LLP appealed.

Meanwhile, the class action settled in October 2011. The court granted class counsel \$13.5 million in fees and costs.

We filed our earlier opinion in December 2012, reversing the judgment of nonsuit. We recognized that a fee splitting agreement is generally unenforceable in the

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On May 10, 2018, the California Supreme Court issued an order approving new Rules of Professional Conduct, which went into effect November 1, 2018. Former rule 2-200 is now recast as rule 1.5.1 with modifications not germane to this opinion. Accordingly, we will refer throughout this opinion to the rule in effect during this litigation, namely, rule 2-200.

absence of the client’s written consent. However, we held that, based on the facts articulated in the opening statement, “plaintiff offered to prove that defendants *wrongfully prevented* it from obtaining client consent. Specifically, plaintiff offered to prove that defendants changed the named class representatives in a class action suit—that is, made ‘a calculated switch of clients’—in order to use rule 2–200 ‘as a “sword” to escape a written referral fee agreement approved by the originally referred proposed class action representatives.’” (*Barnes I, supra*, 212 Cal.App.4th at p. 180.)

On remand, Barnes LLP amended its complaint to assert claims for damages. The case proceeded to a bench trial before Judge Gail Andler. At the close of Barnes LLP’s evidence, defendants moved for judgment under section 631.8.<sup>5</sup> The parties agreed to defer the hearing on that motion until after all evidence had been presented. At that time, the court granted the motion “based solely on the evidence presented by Plaintiff.” It found Barnes LLP “failed to satisfy its burden of persuading the Court that Defendants unfairly or inequitably prevented or blocked Plaintiff from complying with rule 2-200 of the California Rules of Professional Conduct or rule 3.769 of the California Rules of Court.” Barnes LLP appealed.<sup>6</sup>

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<sup>5</sup> Section 631.8, subdivision (a), provides, “After a party has completed his presentation of evidence in a trial by the court, the other party, without waiving his right to offer evidence in support of his defense or in rebuttal in the event the motion is not granted, may move for a judgment. The court as trier of the facts shall weigh the evidence and may render a judgment in favor of the moving party, in which case the court shall make a statement of decision as provided in Sections 632 and 634, or may decline to render any judgment until the close of all the evidence. The court may consider all evidence received . . . .”

<sup>6</sup> Barnes LLP contends we must limit ourselves to the evidence presented in its case-in-chief because the court based its ruling solely on its evidence, even though the court exercised its discretion to hear all of the evidence before issuing its ruling. We disagree. If the court’s ruling was not supported by plaintiff’s evidence, but was supported by the addition of defendant’s evidence, any error in purporting to rely solely on plaintiff’s evidence is necessarily harmless. If we were to remand for the court to reconsider its ruling in light of defendant’s evidence, obviously it would rule the same

## DISCUSSION

The issue we consider here is whether the court erred in refusing to impose an equitable estoppel against defendants raising rule 2-200 as a defense to the fee-splitting agreement. The parties have devoted some of their briefing to the issue of whether the fee-sharing agreement was supported by adequate consideration—i.e., whether referring an idea for a class action rather than a particular client suffices. We assume for the purpose of this appeal that the fee-sharing agreement was supported by adequate consideration and applied to the class action.

On the equitable estoppel issue, Barnes LLP argues the court misinterpreted our prior opinion, and that the error was prejudicial because, properly interpreted, there was evidence to support an equitable estoppel.

In our prior opinion, we held “that an attorney may be equitably estopped from claiming that a fee-sharing contract is unenforceable due to noncompliance with rule 2-200 or California Rules of Court, rule 3.769 (rule 3.769), where that attorney is responsible for such noncompliance and has unfairly prevented another lawyer from complying with the rules’ mandates.”<sup>7</sup> (*Barnes I*, *supra*, 212 Cal.App.4th at p. 174.) Despite that broad rule, we focused on Barnes LLP’s allegation that Ringler had “changed the named class representatives in a class action suit—that is, made ‘a calculated switch of clients’—in order to use rule 2–200 ‘as a “sword” to escape a written

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way. Such a remand would be an exercise in waste and futility. Accordingly, we consider all of the relevant evidence adduced at trial, not merely that which was offered by Barnes LLP.

<sup>7</sup> Rule 3.769(b) provides that a court must approve any settlement of a class action, and that “[a]ny agreement express or implied, that has been entered into with respect to the payment of attorney’s fees or the submission of an application for the approval of attorney’s fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action.”

referral fee agreement approved by the originally referred proposed class action representatives.’” (*Id.* at p. 180.) We noted that prior case law had focused on whether the plaintiff attorney had a fair opportunity to protect its own interests. (*Id.* at p. 181-182.) In concluding Barnes LLP was not in a position to protect its own interests, we relied on its allegation that Ringler’s firm was “‘in a position to manufacture non-compliance with this consumer protection law by switching clients.’” (*Id.* at p. 183.) We concluded that replacing the class representative combined with threatening to sue Barnes LLP if it contacted the new class representatives could support a finding of equitable estoppel. (*Id.* at p. 186.)

Barnes LLP contends the court misinterpreted our opinion; specifically, that it interpreted our opinion as holding equitable estoppel could *only* apply if the court found Meredith had been wrongly switched out as a class representative. Barnes LLP contends the rule we announced was broader than that, in that there were other ways it could establish equitable estoppel. We agree our rule was broader than that, but we do not find the court misinterpreted our opinion.

While the court’s ruling focused heavily on the allegation that Meredith was wrongfully switched out as the class representative, that focus simply reflects our own focus on that allegation (which, at trial, turned out to be completely baseless). But the court did not limit itself to that allegation. It found more broadly that Barnes LLP “‘failed to satisfy its burden of persuading the Court that Defendants unfairly or inequitably prevented or blocked Plaintiff from complying with rule 2-200 of the California Rules of Professional Conduct or rule 3.769 . . . .” It then went on to summarize our prior holding. It concluded, “Based on this language [in our prior opinion], this Court’s mission on remand is to determine whether Plaintiff has met its burden in persuading the Court that Defendants are estopped to rely on rule 2-200’s written consent requirement because they ‘wrongfully prevented’ Plaintiff from obtaining

the class representatives' written consent to fee sharing.” This is an entirely accurate statement of the law as reflected in our prior opinion.

The court then went on to address whether Meredith was improperly switched out as the class representative, concluding he was not. Rather, it found defendants' choice of class representatives was made in good faith. Next, it addressed the NDA and concluded “[d]efendants were reasonable in their concern that this imposed constraints upon Plaintiff and the ability of Plaintiff to participate in the class action.” Finally, it concluded plaintiffs were not aware of the requirement of written consent under rule 2-200 until after the present dispute arose, which “supports the finding that the Defendants did not block Plaintiff's access to the class representatives since access was not sought prior to the filing of this action.”

These findings are all consistent with the proper interpretation of our prior opinion. Accordingly, we conclude the court did not err by relying on a wrong legal standard. The next question is, having articulated the correct legal standard, did the court abuse its discretion in declining to impose an equitable estoppel?

No. “The doctrine of equitable estoppel is founded on concepts of equity and fair dealing. It provides that a person may not deny the existence of a state of facts if he intentionally led another to believe a particular circumstance to be true and to rely upon such belief to his detriment. The elements of the doctrine are that (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel has a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury.” (*City of Goleta v. Superior Court* (2006) 40 Cal.4th 270, 279.) The court found Ringler had a reasonable concern that splitting fees with Barnes LLP would create a potentially disqualifying conflict, and thus he did not act wrongfully in refusing to attempt to obtain client consent. We find no abuse of discretion on two grounds.

First, the evidence supports the court's finding. Ringler consulted an expert who at least suggested disqualification was possible as a result of the NDA. The expert cited *Gilbert v. National Corp. For Housing Partnerships* (1999) 71 Cal.App.4th 1240 (*Gilbert*). There, an attorney represented certain employees in an employment discrimination case. (*Id.* at pp. 1243-1244.) Those employees settled with the employer, and the settlement included an NDA. (*Id.* at pp. 1244-1245.) Afterward, the same attorney represented another employee of the same employer with similar claims. (*Id.* at p. 1245.) On the eve of trial, the employer moved to disqualify the attorney. (*Id.* at p. 1247.) The court granted the motion (*Id.* at p. 1250), and the court of appeal affirmed. It concluded that the attorney could not simultaneously satisfy his duty to the original plaintiffs of maintaining information confidential while also satisfying his duty to the subsequent employee to adduce all helpful evidence at trial. (*Id.* at p. 1252.)

Here, the *Gilbert* rationale could arguably have resulted in the disqualification of Barnes LLP, but that conflict could also have been imputed to defendants. In *Pound v. DeMera DeMera Cameron* (2005) 135 Cal.App.4th 70 an attorney represented certain employees. On the eve of trial, the attorney associated in a second attorney—not a member of the same firm—as cocounsel. The second attorney had consulted with the employer defendant for approximately one hour at the outset of the case. (*Id.* at p. 74.) The second attorney had no recollection of the meeting, but he received confidential information. (*Id.* at pp. 74-75.) The *Pound* court held that not only should the second attorney be disqualified, but the original attorney had to be disqualified as well. It reasoned that the second attorney was presumed to have shared confidential information with the original attorney once he associated in. (*Id.* at pp. 76-77.)

We need not decide whether these principles would have required disqualification of defendants in the present case. For purposes of deciding the equitable estoppel issue, it is sufficient to note that the NDA was a creature of Barnes LLP's own making, made without consulting defendants, and that defendants' decision not to obtain

client consent was based on a reasonable fear that they could be disqualified. Equity did not require defendants to gamble all of their efforts and expense to that point on the hope that Barnes LLP's conflict would not be imputed to them. Accordingly, they did not wrongfully prevent Barnes LLP from complying with rule 2-200.

Our second ground for finding no abuse of discretion is that, although defendants did not know it at the time, it was impossible for them to make a full disclosure to the class representatives because Barnes LLP had concealed another blatant conflict: the potential complicity of Hoffman and the concealment of the letters Hoffman wrote to H&R Block. Rule 2-200 requires a "full disclosure" to the client before a fee-splitting arrangement will be enforced. (Rule 2-200(A)(1).) The purpose of this rule, as we explained in our prior opinion, "is to protect clients from their attorneys' potential conflicts of interest created by fee-sharing agreements. [Citation.] Such agreements have the potential to motivate an attorney to charge excessive fees or to make tactical decisions unfavorable to the client's interests." (*Barnes I, supra*, 212 Cal.App.4th at p. 180.) Likewise, rule 3.769, which requires full disclosure to the court of any fee arrangements in the settlement of a class action, is aimed at protecting class members from conflicts of interest. (*Barnes I*, at p. 184.)

Defendants could not make a full disclosure to either the class representatives or the court of a conflict they knew nothing about. Certainly, the class representatives would have taken a dim view of the fee-sharing arrangement had they known that Barnes LLP concealed what was arguably the strongest evidence in the case. In light of this concealed conflict, it was in fact *Barnes LLP* who prevented *defendants* from making the client disclosure required by rule 2-200, not the other way around. Had the court imposed an equitable estoppel in these circumstances, the salutary aims of rule 2-200 and rule 3.769 would have been subverted. Accordingly, the court acted well within its discretion in refusing to do so.

## DISPOSITION

The judgment is affirmed. Defendants shall recover their costs incurred on appeal. Defendants' request for judicial notice of plaintiffs' briefing in the prior appeal is denied as unnecessary to the resolution of this appeal

IKOLA, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

ARONSON, J.